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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,593	07/30/2003	Noriyuki Tanaka	116727	6206

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT PAPER NUMBER

1772

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/629,593

Applicant(s)

TANAKA ET AL

Examiner

Michael C. Miggins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-3 in the reply filed on 5/19/05 is acknowledged. The traversal is on the ground(s) that a search for group I would encompass the subject matter of group II, claims 4-6 and would not pose undue burden to the examiner. This is not found persuasive because the method claims, claims 4-6, contain the method steps of extrusion or injection molding which result in the claims falling into a separate class/subclass and therefore searching the method claims presents undue burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 4-6 drawn to an invention nonelected with traverse in Paper No. 5/19/05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### **REJECTIONS WITHDRAWN**

3. All of the 35 USC 112 2<sup>nd</sup> paragraph rejections set forth in the non-final rejection of 11/24/05, page 4, paragraphs 9-11 have been withdrawn.

### ***Drawings***

4. Applicant's drawings are not currently contained in the electronic IFW case file. It is respectfully requested that applicant send a new copy of the drawings so they may be

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scanned into the electronic case file. The examiner apologizes for any inconvenience this may cause.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 contains the limitation "olefin-based" which renders the claim indefinite because the addition wording such as "type" to an otherwise definite expression extends the scope of the expression so as to render the claim indefinite (MPEP 2173.05(b)).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons (US 3560240) in view of Thacker et al. (US 2612456).

Claim 1 contains the method limitation "formed by applying a solvent to the container body after a blow molding thereof". Method limitations are not germane to the patentability of a product claim (MPEP 2113) and the prior art need not disclose applicant's method limitations to read on the claims as written.

Simmons discloses a container having a craze pattern (Figs. 4-5, crackle coating contains craze pattern because fissures are formed, see column 1, lines 31-41) on a outer surface of a container body (Figs. 4-5), said container comprising an inner layer that comes into direct contact with content during its storage (the inner layer is the container (Figs. 4-5 and column 4, lines 5-17), a patterned layer carrying a craze pattern (Figs. 4-5, crackle coating contains craze pattern because fissures are formed, see column 1, lines 31-41) (applies to instant claim 1).

Although Simmons does not specifically disclose a plastic container, Simmons clearly suggests a plastic container since Simmons specifically states that crackle coating may be applied to a plastic substrate (column 3, lines 1-6) and it would have been obvious to use a plastic container in order to provide a light weight container with good mechanical properties such as strength (applies to instant claim 1).

Simmons fails to disclose a translucent protective layer convering from outside at least part of the patterned layer carrying the craze pattern.

Thacker discloses a translucent protective layer for a crackle coating (crackle coatings contain craze patterns because of fissures as disclosed above, column 1, lines 39-52) wherein color is applied to various layers (column 1, lines 39-52) for the purpose

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of providing protection for the crack coating as well as a more aesthetically pleasing crackle coating (applies to instant claims 1 and 3).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a translucent protective layer converging from outside at least part of the patterned layer carrying the craze pattern in the container of Simmons in order to provide protection for the crack coating as well as a more aesthetically pleasing crackle coating as taught or suggested by Thacker.

#### ***Allowable Subject Matter***

9. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not teach a craze pattern formed on a cyclic polyolefin in a container.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Miggins  
Primary Examiner  
Art Unit 1772



MCM  
August 5, 2005